



BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2014-01

SUBJECT: AUDIO AND VIDEO CONFERENCING AT PAROLE HEARINGS

INTRODUCTION

The purpose of this directive is to provide guidance and transparency for audio and video conferencing at hearings. All parties wishing to attend a hearing via audio or video conferencing must comply with the guidelines set forth below and in the "Notice of Audio and Video Conferencing Terms and Conditions" attached to this administrative directive.

LEGAL AUTHORITY

Penal Code section 3043.25 entitles a victim, next of kin, members of the victim's immediate family, designated representatives, and prosecutor to appear via video conferencing at any hearing "to review parole suitability or the setting of a parole date." On June 27, 2011, the Legislature passed **Assembly Bill 1281** (AB 1281) to allow these parties to also participate via audio conferencing. On July 12, 2011, Governor Brown vetoed AB 1281 stating it was unnecessary and instead directed the Board of Parole Hearings (Board) to accommodate those wishing to participate in these hearings using audio conferencing.

DEFINITIONS

For purposes of this administrative directive:

- **"Video conferencing"** means the live transmission of audio and video signals by any means from one physical location to another. **"Audio conferencing"** means the live transmission of audio signals by any means from one physical location to another. Penal Code section 3043.25.
- **"Participants"** means those persons entitled to attend a hearing pursuant to **Penal Code section 3043.25** (any registered victim, victim's next of kin, or member of the victim's immediate family; persons designated prior to the hearing in writing by the victim or victim's next of kin to be their representative; and a representative of the prosecuting agency), pursuant to **Penal Code section 3041.1** (a support person for

any registered victim, victim's next-of-kin, or member of the victim's immediate family); and pursuant to **California Code of Regulations, title 15, section 2029.1** (persons authorized by the Executive Officer of the Board to observe for educational or informational purposes).

DIRECTIVE

1. Waiver

If participants attend a hearing via audio or video conferencing, they waive their right to appear in person at the hearing. If participants request to attend a hearing via audio or video conferencing but change their mind and wish to attend in person, they must notify the Board as soon as possible via email at bphliferanalyst@cdcr.ca.gov or by phone at (916) 324-0800.

2. Notification

Participants wishing to attend a hearing via audio conferencing must notify the Board via email at bphliferanalyst@cdcr.ca.gov or by phone at (916) 324-0800 before the hearing. The Board or CDCR's Office of Victim and Survivor Rights and Services (OVSRS) will send a "Notice of Audio and Video Conferencing Terms and Conditions" (Terms and Conditions) to the participant.

Participants wishing to attend a hearing via video conferencing must coordinate with the prosecuting agency (or county Victim-Witness Assistance Program) before the hearing to determine if video conferencing equipment is available. If video conferencing equipment is available, the prosecuting agency is responsible for contacting the board via email at bphliferanalyst@cdcr.ca.gov or by phone at (916) 324-0800 as soon as possible to request participation via video conferencing. The Board will coordinate with institutions to facilitate video conferencing. The Board or OVSRS will send the Terms and Conditions to the participants.

It is recommended that participants notify the Board of their intent to attend a hearing in person or via audio or video conferencing as early as possible so the Board can request the necessary institution gate clearances for those attending in person and make necessary arrangements for those attending via audio or video conferencing. In addition, the earlier the Board receives notice, the more likely the Board can accommodate the requests in the most convenient manner for all participants.

3. Equipment Availability

The availability of audio and video conferencing equipment varies by institution: as does the working order of the equipment. And those institutions that do have working equipment may not be able to accommodate multiple participants, in which case participants may be required to gather in a central location, usually the office of the prosecuting agency or the county Victim-Witness Assistance Program.

Also, if a foreign language interpreting service is required for the hearing it will be given priority use of the audio or video equipment. Furthermore, operator-assisted conference calling services are generally cost prohibitive but may be authorized by the Executive Officer.

4. Participant Availability

Participants must be available at the scheduled start time of the hearing. Failure to do so will result in loss of the opportunity to participate in the hearing. Although hearings will not start before the scheduled time without permission from all the registered participants, they may begin as late as 6:00 p.m.

5. Participant Restrictions

Participants may not record or transmit by any means any hearing, or portion thereof, conducted by the Board, nor may participants allow an unauthorized individual to hear, view, record, or transmit any portion of a hearing.

6. Other Limitations

The Board's Executive Officer or the presiding commissioner may cancel, limit, or terminate participation by audio or video conferencing at any time for good cause. Examples of good cause include, but are not limited to, equipment or connectivity failure, the need to discuss confidential information (which may result in a temporary suspension of signal transmission), and interruptions or other significant distractions caused by participants. If audio or video conferencing is terminated, the hearing will proceed without the participants.

In light of the above limitations, it is strongly advised that remote participants submit written statements to the Board prior to the hearing to ensure their views will be taken into consideration in the event of equipment failure, lack of connectivity or other limitation.

7. Verbal Acknowledgment

At the commencement of each hearing, the panel shall determine if any participants are attending via audio or video conferencing and verbally review the Terms and Conditions with them. Each participant shall be asked to acknowledge all of the following in the affirmative in order to participate in the hearing:

- You have the right to attend this hearing in person. Do you waive your right to personally appear at this hearing?
- Your participation in this hearing via audio or video conferencing may be cancelled, limited, or terminated at any time for good cause, including equipment failure. Do you understand that this hearing will proceed without your participation if the panel finds good cause to do so?
- As a condition of your participation via audio or video conferencing you must agree to not record or transmit this hearing by any means, nor allow any unauthorized persons to hear, view, record or transmit any portion of this hearing. Do you agree to these terms?

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the legal office at (916) 324-7604.

APPROVED BY: _____

JENNIFER P. SHAFFER
Executive Officer, BPH

DATE: _____

Notice of Audio and Video Conferencing Terms and Conditions

In order to attend a hearing via audio or video conferencing, participants must be advised of and agree to the following terms and conditions. (Please refer to Board of Parole Hearings Administrative Directive 2014-01 for more details.)

1. Waiver: If participants attend a hearing via audio or video conferencing, they waive their right to appear in person at the hearing. If participants request to attend a hearing via audio or video conferencing but change their mind and wish to attend in person, they must notify the Board as soon as possible via email at bphliferanalyst@cdcr.ca.gov or by phone at (916) 324-0800.

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5. Participant Restrictions: Participants may not record or transmit by any means any portion of any hearing conducted by the Board, nor may participants allow an unauthorized individual to hear, view, record, or transmit any portion of a hearing.

6. Other Limitations: The Board's Executive Officer or the presiding commissioner may cancel, limit, or terminate participation by audio or video conferencing at any time for good cause. Examples of good cause include, but are not limited to, equipment or connectivity failure, the need to discuss confidential information (which may result in a suspension of signal transmission), and interruptions or other significant distractions caused by participants. If audio or video conferencing is terminated, the hearing will proceed without the participants.

In light of the above limitations, it is strongly advised that remote participants submit written statements to the Board prior to the hearing to ensure their views will be taken into consideration in the event of equipment failure, lack of connectivity or other limitation.

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- You have the right to attend this hearing in person. **Do you waive your right to personally appear at this hearing?**
- Your participation in this hearing via audio or video conferencing may be cancelled, limited, or terminated at any time for good cause, including equipment failure. **Do you understand that this hearing will proceed without your participation if the panel finds good cause to do so?**
- As a condition of your participation via audio or video conferencing you must agree not to record or transmit this hearing by any means, nor allow any unauthorized persons to hear, view, record or transmit any portion of this hearing. **Do you agree not to record or transmit this hearing, or allow others to hear, view, record or transmit any portion of this hearing?**